

Message

From: David M. Metres [DMetres@bargcoffin.com]
Sent: 11/8/2019 10:52:44 PM
To: hkarr@nndoj.org; Gallo, Madeline [Gallo.Madeline@epa.gov]
CC: 'Kuhl, Brooke' [Brooke.Kuhl@BNSF.com]
Subject: RE: Haystack Mine: Revised Draft Relocation Agreement

Harrison and Maddy,

BNSF will split the incentive payment as suggested - \$500 after completion of the TCRA and \$500 after completion of the full cleanup. We will revise accordingly and flip a new draft back to you soon, likely on Tuesday after the holiday.

Best,
Dave

From: David M. Metres
Sent: Thursday, November 7, 2019 8:38 PM
To: 'Harrison Karr' <hkarr@nndoj.org>; Gallo, Madeline <Gallo.Madeline@epa.gov>
Cc: Kuhl, Brooke <Brooke.Kuhl@BNSF.com>
Subject: RE: Haystack Mine: Revised Draft Relocation Agreement

Harrison and Maddy,

Thank you very much for the suggestion and affirmation of the relocation agreement. We are following up internally, and will be in touch soon.

Best,
Dave

From: Harrison Karr <hkarr@nndoj.org>
Sent: Thursday, November 7, 2019 12:52 PM
To: Gallo, Madeline <Gallo.Madeline@epa.gov>; David M. Metres <DMetres@bargcoffin.com>
Cc: Kuhl, Brooke <Brooke.Kuhl@BNSF.com>
Subject: RE: Haystack Mine: Revised Draft Relocation Agreement

The suggestion that Maddy mentioned was simply that providing for two incentive payments, one at the end of the TCRA and one at the end of the cleanup, might be more likely to be effective in ensuring that the residents fully cooperate. It's entirely your call.

Harrison

Harrison Karr, Attorney
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Fax 928-871-6177

From: Gallo, Madeline [<mailto:Gallo.Madeline@epa.gov>]
Sent: Wednesday, November 6, 2019 12:26 PM

To: David M. Metres <DMetres@bargcoffin.com>
Cc: Harrison Karr <hkarr@nndoj.org>; Kuhl, Brooke <Brooke.Kuhl@BNSF.com>
Subject: RE: Haystack Mine: Revised Draft Relocation Agreement

Dave and Brooke:

After discussing it internally and checking in with Harrison, EPA is satisfied with the proposed relocation agreement you sent on Friday. We appreciate your cooperation and willingness to consider creative solutions to BNSF's and the agencies' concerns. Harrison may have one more suggestion for you, but I will let him communicate that.

As discussed on last week's call, Priscilla should be included in the plans to present the residents with the proposal. Please let me know if there is anything else I can assist with to keep this project moving forward.

Thank you,
Maddy

From: David M. Metres <DMetres@bargcoffin.com>
Sent: Friday, November 1, 2019 3:41 PM
To: Gallo, Madeline <Gallo.Madeline@epa.gov>
Cc: hkarr@nndoj.org; Kuhl, Brooke <Brooke.Kuhl@BNSF.com>
Subject: RE: Haystack Mine: Revised Draft Relocation Agreement

Maddy (and Harrison),

Thank you again for your efforts to put together this relocation agreement. We have reviewed and responded to your comments in the attached redline and clean copies. If the clean copy is acceptable, we can go ahead and remove the "Discussion Draft" header, put together two copies (one for each family), and prepare it for review and signature by the relocatees and BNSF. Please advise how you prefer to proceed.

Thanks,
Dave

From: Gallo, Madeline <Gallo.Madeline@epa.gov>
Sent: Monday, October 28, 2019 9:51 AM
To: Kuhl, Brooke <Brooke.Kuhl@BNSF.com>; David M. Metres <DMetres@bargcoffin.com>
Cc: hkarr@nndoj.org
Subject: RE: Haystack Mine: Revised Draft Relocation Agreement

Good morning:

A quick update: Priscilla reviewed the agreement this morning and has no additional comments.

Maddy

From: Gallo, Madeline
Sent: Friday, October 25, 2019 3:11 PM
To: Kuhl, Brooke <Brooke.Kuhl@BNSF.com>; David M. Metres <DMetres@bargcoffin.com>
Cc: Harrison Karr (<hkarr@nndoj.org>) <hkarr@nndoj.org>
Subject: RE: Haystack Mine: Revised Draft Relocation Agreement

Dave and Brooke:

Attached are USEPA's comments and a few minor typo fixes on the new draft. Overall, it's looking very good, and I appreciate your responsiveness to USEPA's concerns.

There are two substantive issues that I flagged in the attached draft and have also discussed with Harrison at Navajo DOJ:

- Paragraph 11: I wanted to make sure that tying the incentive payment of \$1000 to completion of the "Cleanup" was intentional. I suspect that it may be less appealing than an incentive payment following the completion of the TCRA, since the TCRA will be done soon but the Cleanup will take multiple years. Since USEPA did not suggest this term, I do not have a strong opinion about it, but I wanted to point it out in case you actually meant to say "TCRA" there.
- Paragraph 23: I believe this is simply an oversight because it was never put in writing, but USEPA does not want to resolve disputes that arise under this agreement. Some alternative suggestions were discussed on our 9/26 call.

I believe Priscilla is out of the office right now, so I do not have the benefit of her review yet. I will let you know as soon as I receive her feedback.

Vivian has again expressed her willingness to provide the proposed agreement to the family when the proposal is ready.

Please let me know if you would like to discuss. I am available until 5:30 today and on Monday through Wednesday next week. I am traveling for yet another negotiation on Thursday and Friday next week, so I may be a little slow to respond on those days.

Thank you,
Maddy

Madeline Gallo
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From: Kuhl, Brooke <Brooke.Kuhl@BNSF.com>

Sent: Tuesday, October 15, 2019 12:24 PM

To: Calanog, Steve <Calanog.Steve@epa.gov>; Gallo, Madeline <Gallo.Madeline@epa.gov>; Tom, Priscilla <Tom.Priscilla@epa.gov>; Townsend, Amanda <townsend.amanda@epa.gov>; 'Vivian Craig' <viviancraig@navajo-nsn.gov>

Cc: Makerov, Mike <Mike.Makerov@BNSF.com>; Stegman, Allen M <Allen.Stegman@BNSF.com>; Thomas, Charles D <Charles.Thomas@BNSF.com>; Werth, Drew <Andrew.Werth@arcadis.com>; 'Alison Harmon' <Ali.Harmon@arcadis.com>; 'David M. Metres' <DMetres@bargcoffin.com>

Subject: Haystack Mine: Revised Draft Relocation Agreement

All,

Attached please find a revised draft of the Relocation Agreement. This version includes edits based on feedback provided during the prior group call and comments BNSF received along with updated information on estimated utility costs (paragraph 13) and locations of current and proposed homesites. I have attached a clean version in Word that accepts the changes shown in the attached redline pdf. I am also including the surveys describing the locations of the proposed new homesites.

Thank you,

Brooke

Brooke Kuhl

Senior General Attorney

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